

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

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Federal Communications Commission
Office of the Secretary

In the Matter of)

Revitalization of the AM Radio Service)

MB Docket No. 13-249)

To: The Commission

**Comments of
Mariana Broadcasting, Inc.**

Mariana Broadcasting, Inc. ("Mariana"), licensee of award-winning daytime-only AM station WGHT(AM), Pompton Lakes, New Jersey, by its counsel, hereby submits its comments to the Commission's Notice of Proposed Rule Making ("NPRM") in the above-referenced proceeding. As the licensee of an AM station in the spectrum-congested and electrically-noisy areas surrounding New York City, Mariana is strongly supportive of the FCC's efforts to improve the quality and viability of AM radio stations in general, and particularly those efforts aimed at promoting improved service to the public by AM daytimer stations like WGHT(AM). In these comments, however, Mariana focuses specifically on the FCC's proposal to open a filing window for purposes of permitting AM stations to apply for an FM translator, which, among the Commission's proposals, promises the most immediate and direct benefit to the public.

Background

WGHT(AM) is the only broadcast station licensed to Pompton Lakes, New Jersey. As a result, when the sun sets and WGHT(AM) must terminate operations, the 167,000 people located within 5 miles of WGHT(AM)'s transmitter site are served by no other signal, AM, FM or TV, that provides similar coverage of local news and events, including local weather alerts, sports events, town meetings, or anything else that happens after the sun goes down.

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In acknowledging the difficult circumstances of being a daytime-only AM station, the Commission has noted that

[t]hese stations operate at a significant competitive disadvantage due to their shorter broadcast day and their inability to broadcast year-round during the entirety of the critical drive-time portion of their broadcast day. Permitting these stations to use FM translators to continue their service to the public during these important hours is consistent with the fundamental purpose of fill-in FM translators, which is to provide continuity of service within licensed service areas.¹

Despite the fact that WGHT(AM)'s listeners must retune their radios to WGHT(AM) every morning, or just not listen to any radio station after sunset, the station's local programming format has been so successful that this stand-alone station has been recognized by the National Association of Broadcasters for excellence in community service with six Crystal awards in the past seven years.

WGHT(AM) has the only live local radio newsroom in North Jersey, and its News Department has won dozens of awards from the Associated Press for its local newscasts. The station regularly wins the Garden State Journalists news awards, most recently winning 1st, 2nd, and 3rd in the Radio Spot News category, 1st, 2nd, and 3rd in the General News Radio category, and 1st and 2nd in the Radio Feature category in 2013.

WGHT(AM)'s daily programming focuses on North Jersey concerns, from local news to regional charity events, and the station is local residents' prime source of information in adverse weather, including school, municipality, and town closure announcements during snowstorms. WGHT(AM) represents the epitome of community-oriented stations.

The station has heard repeatedly, however, from its listeners and local public officials of the importance of initiating nighttime operation. Beyond the many local town meetings, sports

¹ *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, 24 FCC Rcd 9642 (2009), at ¶ 22.

events, and other newsworthy matters that occur after sunset and which therefore must be reported the next day rather than broadcast live, the station is unable to broadcast current weather, traffic, and emergency conditions on a 24-7 basis.

Flooding is a major problem in the Pompton Lakes area given that three rivers – the Ramapo, Pequannock and Wanaque – run through the Borough. For example, in March 2010, disaster struck the community when a change in the National Weather Service forecast after the station was required to shut down for the evening resulted in unanticipated and heavy flooding in the Pompton Lakes area. Ultimately, there was a failure in the operation of the gates of the Pompton Lakes Dam, causing local rivers to rise, and hundreds of homes to be flooded. Unfortunately WGHT(AM) had no way of disseminating a warning to the public that night.

Complicating matters, because AM towers operate most efficiently when located in wet or swampy land, the rising flood waters eventually flooded the AM transmitter site, preventing WGHT from resuming operations the next morning. That afternoon, local officials passed on an erroneous report of a major dam failing upriver and were forced to spread the message that a wall of water might be arriving soon by reverse-911 calls. When it was later discovered that a different, less critical, dam was the actual source of the “dam failing” rumor, another reverse-911 call went out trying to ease the panic caused by the initial message.

Had WGHT(AM) been able to continue its news programming through the night from an FM translator facility located on higher ground, it could have been providing constantly updated and more detailed information to the public throughout the evening and next day, thereby minimizing the damage and the panic caused by the erroneous public report of a key dam failing. Instead, the residents of the Pompton Lakes area suffered unnecessary loss of life and property in the flood that could have been prevented.

Unfortunately, this was not an isolated incident. When Hurricane Sandy struck the area in 2012, flooding once again claimed the AM tower site, knocking the station off the air for several days. While WGHT(AM) is equipped with an emergency generator, that will not keep the station on the air when the AM tower site is underwater. However, the station would be able to continue transmitting via an FM translator located on higher ground in such an emergency. Ensuring that stations like WGHT(AM) have the capability to continue serving the public at night and in adverse conditions is unquestionably in the public interest.

I. Promoting the Use of FM Translator Stations by AM Daytimer Stations Serves the Public Interest

While commenters in many proceedings at the FCC assert that a particular proposal is “in the public interest,” as the above examples demonstrate, giving AM daytimer stations the ability to operate at all times of day and night without causing any increase in AM interference indisputably expands service to the public, and thereby promotes the public interest in a very concrete way.

While permitting around-the-clock operation on a daytimer’s AM facility would be ideal, the laws of AM signal propagation prevent that from happening without causing interference to other AM stations. Any solution that provides incremental improvements (e.g., longer hours of daytime operation or reductions in AM noise levels) is welcome, but it appears that, at least for AM daytimers, the “low hanging fruit” for immediately improving service to the public is the use of FM translators.

In fact, an FM translator may actually have some advantages over continuous AM operation in emergency situations, as it ensures alerts can be heard on all radios while providing signal, equipment, and antenna site redundancy that makes the station a more robust source of information for the public during emergencies that might knock some stations off the air.

In addition, the FCC has correctly noted that its experience with permitting AM stations to use FM translators “appears to indicate that cross-service translators have advanced the Commission’s interest in localism, competition, and diversity.”² Given WGHT(AM)’s history of local service, the fact that WGHT(AM) is locally owned and operated, and that Mariana owns no other stations, it is a perfect example of how getting FM translators into the hands of AM daytimers serves a multitude of Commission objectives that go beyond merely ensuring continuous operation.

II. Mariana Supports the FCC’s Proposal to Open an FM Translator Window Exclusively for AM Licensees and Urges a Priority for Stand-Alone AM Daytime-Only Stations

In the NPRM, the Commission proposes opening a filing window for AM stations to apply for a single FM translator authorization to provide service within the lesser of a 25 mile radius of the AM transmitter site and the 2mV/m service contour of the AM station. This would allow AM stations to “apply for and receive authorizations for new FM translator stations for the sole and limited purpose of enhancing their existing service to the public.”³ Mariana strongly supports this proposal, including the FCC’s complementary proposals to permanently link the FM translator to the applying AM station, and to limit each AM station to one FM translator application filing in such a window. This approach is narrowly tailored to address a significant public need, and will provide the greatest and most immediate benefit to the public, ensuring public safety information is available at all times of day and night.

This fact, however, brings us to perhaps the most critical point in the design of the filing window. The NPRM asks whether eligibility to file in the window should be limited to “certain

² *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, 24 FCC Rcd 9642 (2009), at ¶ 10.

³ NPRM at ¶ 14.

class stations, e.g., Class C and D station only, or to 'stand alone' AM stations.”⁴ From the standpoint of expanding total service to the public, there can be no question that providing FM translators to AM daytime-only stations provides the public with the biggest “bang for the buck,” and that from the perspective of increasing “localism, competition, and diversity,”⁵ providing FM translators to stand-alone AM stations further maximizes the benefit to the public. Mariana therefore strongly supports the opening of an FM translator filing window which ensures that such stations will be able to acquire at least one FM translator, before any more general FM translator window is opened.

Having said that, unless the Commission is willing to open sequential FM translator windows with ever-broadening eligibility criteria, a single filing window limited to stand-alone AM daytimers might unduly delay AM stations not meeting those criteria in applying for FM translators in parts of the country (unlike Pompton Lakes) where vacant spectrum is plentiful. Mariana therefore proposes that if the Commission finds it inefficient to open an FM translator filing window solely for stand-alone AM daytimers, it should establish a first-priority preference in such a window for AM daytimers, with a second-priority preference for stand-alone stations. Such an approach would maximize the number of AM stations that could benefit from an FM translator filing window, while ensuring that the stations that would most benefit from such translators would be able obtain them in spectrum-congested areas.

In either case, providing relief to AM daytimer stations should be the highest priority of any AM filing window for FM translators, and if the Commission believes that the introduction of applicant priorities might unduly complicate such a filing window, Mariana urges the

⁴ NPRM at ¶ 14.

⁵ *Amendment of Service and Eligibility Rules for FM Broadcast Translator Stations*, 24 FCC Rcd 9642 (2009), at ¶ 10.

Commission to adopt the NPRM's original proposal to limit eligibility, and to give stand-alone AM daytimer stations the opportunity they need to fundamentally expand service to the public. Such an approach will, in the Commission's words, serve to "provide efficient and expeditious assistance to such broadcasters and, thus, to promote a more robust and sustainable AM broadcast service."⁶

Conclusion

For the reasons stated above, Mariana strongly supports the Commission's proposal to open at least one AM-only FM translator window, and to adopt such eligibility criteria and/or applicant preferences for that window as are necessary to ensure that this opportunity to preserve and expand "localism, competition, and diversity" by providing FM translator stations to stand-alone AM daytimer stations is not lost or squandered.

Respectfully submitted,

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⁶ NPRM at ¶ 16.